

COUNCIL MINUTES
APRIL 23, 2014

The City Council held a meeting on Wednesday, April 23, 2014, at 5:30 p.m., in the Council Chambers, 10 North Main Street, Cedar City, Utah.

MEMBERS PRESENT: Mayor Maile Wilson; Councilmembers: Ron Adams; John Black; Paul Cozzens; Fred Rowley; Don Marchant.

STAFF PRESENT: City Attorney Paul Bittmenn; City Engineer Kit Wareham; City Recorder Renon Savage; Finance Director Jason Norris; Police Chief Robert D. Allinson; Economic Development Director Brennan Wood; Parks Superintendent Wally Davis; HR Director Natasha Hirschi; Fire Chief Paul Irons; Leisure Services Director Dan Rodgerson; Public Works Director Ryan Marshall; Water Superintendent Robbie Mitchell.

EXCUSED: City Manager Rick Holman.

OTHERS PRESENT: Adrienne Beazer, Jadon Beazer, Tom Jett, Alexa Hunter, Kordan Neilson, Jamieson Holyoak, Patrick Chapman, Terry Irons, Damon Day, Samuel Sanders, Zachary Wolfe, Buck Naegle, Lacey Warren, Hanan Pruitt, Aimee Bryson, Malissa Snow, Kett Einfeldt, Marilyn Kidwell, Bailey Bowler, Megan Jensen, Matthew Nelson, Hershel Ames, Riley Heyborne, Aaron Hatch, Cheyanne Cook, Danny Cook, Victoria DeAvila, Mark Ashby, Tanner Crain, Nick Young, Ty Orme, Wes Grimm, William J. Heaton, Austin Sullivan, Tracie Sullivan, Holly Coombs, Logan Payne, Cooper Payne, Doug Hall, Evan Ludwig, Court Einfeldt, Tim Einfeldt.

CALL TO ORDER: Councilmember Marchant gave the opening prayer; the pledge of allegiance was led by Tanner Crane of Scout Troop 1887, Cedar Meadows Ward.

AGENDA ORDER APPROVAL: Councilmember Marchant moved to approve the agenda order; second by Councilmember Rowley; vote unanimous.

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF COMMENTS: ■ Rowley – yesterday I was able to join North Elementary 2nd grade at the Fire Safety House, they were treated with patience and kindness and were talked to in a manner they could understand. I thank the Fire and Ambulance services for their work. Mayor – I was also at the Life Safety House yesterday, between EMT, Police and Fire, I was in a room where someone cried and they handled it amazingly well. It is a benefit to our community teaching the kids what to do in an emergency. ■ Mayor – today is Administrative Professionals Day and I want to thank those that provide the services to the City and our community. ■ Arbor Day Proclamation, April 25, 2014 - Wally the State has designated as the last Friday in April as Arbor Day. It encourages citizens to plant more trees to provide shade and protect from insects and wildlife. We are asking the Mayor to sign a proclamation. As part of the proclamation, we encourage citizens to plant a new tree or maintain some of the trees they have. We will have an Arbor Day

program on May 8th, we will notify you when we get the program finalized, it will be at the Aquatic Center. We will be planting trees; we will have about 300 students there. Mayor – not only for the school children, but we all can participate. ■ Brennan Wood, MSC groundbreaking May 1st at 10:45. They are asking that we help clear debris on the lot north of them. Most of our crews were doing Spring Clean Up, I talked to Rick and Tom Jett overheard and so he took it on as a service project and we got DNR approval to clear that. Tom Jett – the person that did a lot was Rocky Ridge Roll-offs, they provided the trucks.

PUBLIC COMMENTS: ■Evan Ludwig – Mr. Bittmenn I am here to tell you that the shed is down, I did not like the letter you sent, it was arrogant, sick your dog's off. When I read it you don't want to know what I thought. When I talked to you in your office I told you I would have it down if the council did not approve it. The matter is finished now, and now we can part enemies. I have no respect for you or for the City Council. You thanked me for my service to the Country, to heck with that. I have had more than enough in my life; I was not impressed with your endeavor. I don't think you have the peoples concern for their property rights. I know there needs to be laws. Over the weeks I quit coming after 263 people calling and you would not enjoy the appellations they put on your names. Aside from the fact, either 21 or 22 older ladies called, they expressed thoughts like my goodness, what are people trying to do. Older men were civil and had no respect to know you should help people out. Rowley – there are students here, they don't need to hear all of this. Evan – I have my freedom of speech. Marchant – you have made your point. Evan – overall you suck, I am disappointed that you didn't try to help someone. I spent numerous nights no sleeping. Get off the signs and the size and start thinking about people's property rights, you want us to pay taxes but you want to rule us out of use of property. I would hope that you would all go out and have problems so you can experience how life is. I will not show up any more to council meeting. I don't want to have anything to do with you. The Fire Department is letting the water run out of hydrants I can water when I want. I am out of here and God bless the United States. ■Buck Naegle, commander of Search and Rescue – we have a carnival as a fund raiser. Last year we used the Elks property and the City property adjacent to that. We would like to use the property again. Mayor – how many people came through last year? We don't know. Marchant – it is a better location, it is May 15, 16 & 17. Paul – the carnival people post the insurance. The Council was positive. It will be reviewed to see if it needs a formal vote. ■Rowley – I want you to know we took a lot of care to look at Mr. Ludwig's property, he had a violation by building to the sidewalk and it is a violation and creates a safety hazard. He was upset and it was unfortunate. We did not feel it was best for the general wellbeing of the City. We have to set general rules and ask everyone to abide by them. Mayor – we also want you to know that this is a forum where you can come if you have a problem. Cozzens – we are bound by ordinance, if Mr. Ludwig wants to change the ordinance he needs to take the steps. We are bound by the laws.

CONSENT AGENDA: (1) APPROVAL OF MINUTES DATED APRIL 2 & 16, 2014; (2) APPROVAL OF BILLS DATED APRIL 17, 2014; (3) APPROVE A CITY SPONSORSHIP OF \$3,000 FROM THE EXECUTIVE DISCRETION FUND FOR THE PAIUTE INDIAN TRIBE'S ANNUAL PAIUTE POW-WOW – JACK

**SAWYER & GARI LAFFERTY; (4) APPROVE A TAXILANE & AVIATION
WAY PUBLIC IMPROVEMENT AGREEMENT – BRENNAN WOOD:**

Councilmember Adams moved to approve the consent agenda items 1 through 4 as written above; second by Councilmember Marchant; vote unanimous.

**CONSIDER A LEASE AGREEMENT WITH LOGAN PAYNE FOR THE
CONTINUED USE OF THE CITY'S WATER RIGHTS – LOGAN PAYNE:** Black

– I could appreciate the fact that this has been ongoing and that it may have some degree of impact I can also appreciate we have ordinances and State laws that seem to conflict. As a city we have started to be good managers of well managed water and we have taken a lot of steps to do that. We will enact an ordinance to put some teeth in using wrong watering times. We have made good conservation efforts and recharge with the Water Conservancy District. We talk the talk of good water management. This is not the only instance where we allow water rights given to the City and then giving them back. Mayor Burgess made a good effort to acquire water rights and to take them out of production to not drawdown the water and agriculture is a big draw down, as well as the City and others. We are making good efforts. I will vote against this.

Paul – there is an agreement with Smith and Sons for them to continue to use 200+ and have a first right of refusal on additional 500 acre feet of water. Black – I would like a report. Paul – it is good until needed. Kit – I don't think anything has changed on my opinion, I think we need to do the best we can to not draw down the aquifer. It is different than what we did with the Haker's, this does go by the ordinance to allow them continued use of the water for agriculture purposes. Rowley – how long ago was the annexation? Logan – 2008. Rowley – why now coming to us. Logan – with the State Water Engineer, every 5 years you have to do a proof of beneficial use, nothing has changed, I am complying with the ordinance, it is a document that I give to the State Water Engineer and stating how I am watering, that is the only purpose. Rowley – he is complying with the ordinance. How did we get the ordinance? Paul – Mr. Payne is reasonably applying the ordinance. If you want to change the ordinance, then you can revisit and you can keep the provisions to bring in water with annexation, but not allow them to use it. We can bank the water or you cannot annex from here to Caliente. Rowley – the water coming down the creek in the summer, we cannot use the Airport, but could use some other recharge? Kit – yes, that could be done. That would be only the City water. The normal flows that come down the creek would be alright. Rowley – I believe we are on the hook because he is in compliance with what is in place. Marchant – I am concerned about the precedent we set with Smith and Son. Rowley – that was done when the ordinance was in place. I think he can continue the use as long as he gets the water by piping. How does it line up with State statute? Paul – it is extremely gray, we knew that when we put it into effect. Adams – we had a lot of discussion with the Harker's. I think we need to leave it alone for this, but can discuss the ordinance later. Cozzens – right now it is the rule. Marchant – where the understanding is different there is good will that needs to be applied. If we need to make amendments we can do that later. Cozzens – at annexation can the land owner choose? Paul – up to a certain point, if there is a land mass that wants to annex then some can be annexed without the consent. Did you choose to annex in 2008? Logan - I wasn't involved in the actual annexation, is

it required? Paul – yes if it is wet property, if not then they pay a water acquisition fee. Logan – I was not involved with the annexation. Mayor – will you continue to use as agriculture? Logan – yes. Rowley – can they de-annex? Paul – if we de-annex what do we do with the water? You can't get rid of the water. We can't lease it but we can let them use it. Cozzens – it doesn't seem fair that they lose their water if we change the ordinance. You can see unintended consequences, that are not fair. It would make someone think twice about annexing. Kit – the intent of the ordinance is to obtain water for the city. Mayor – my view is that we have an ordinance in place and have a procedure. Where he has met the requirements of the ordinance I would think we need to honor that and we can bring the ordinance and look at the unintended consequences and look at the ordinance from a broad perspective. Adams – now would be a good time to revisit the ordinance. Cozzens – it is a tough deal, we are breaking the law? But no money is transferred. Paul – the annexation gave us the water and they are maintaining their own system. It has never been anything but a gray area. The prior council was of the opinion to capture good water rights, so we enacted what we have. If we change that, I assume you still want to obtain the water rights, but we can change it to not be friendly to annexation. There was a petition that came to staff a week ago to annex about 20-40 acres of farm ground, if you are going to have this discussion do it before they decide to annex. Rowley – the conundrum of farmer Jones being forced into annexation if his property is between two that want to annex. Black – I don't think anyone is opposed to the annexation ordinance; it is the use of the water after they give it. Cozzens – people will think twice about annexation if it is changed.

Councilmember Adams moved to approve the continued use of the City's water rights; second by Councilmember Cozzens; vote AYE: 4 NAY – 1 Black.

CONSIDER BIDS FOR THE CITY'S 2014-15 HEALTH, DENTAL, VISION AND LIFE INSURANCE – NATASHA HIRSCHI: Natasha - in your packets you have information about switching to PEHP who is the second low bidder. We hope this will be sustainable in the future. We propose to keep it under one carrier, it is more manageable. Rowley – do we have to go with the low bidder? Paul – lowest responsible bidder and has a lot of factors. Natasha – I have checked with references and taken it to the EAC. PEHP waived the three year commitment. They are the State's insurance, they have an office in St. George. They said they will come up on a regular basis. Adams – are they user friendly with IHC? Natasha – we have a list of providers and we have passed it around to employees and most of the doctors are on the list. Mayor – were there positive reviews from all references. Natasha – I did not have any negative responses, everything was very positive. Adams – will it change anything with the amount we contribute to the HSA. Natasha – this is just the bid, nothing else. The premiums take us back where we were a few years back, where we were in 2011. Coverage wise there is very little differences, the tier on prescriptions is a little different, but they are very close. The tiers go from \$7, \$21, \$42. Now this is \$10, \$25, \$50; some changes will be positive some negative, but very comparable. Black – I appreciate the work.

Councilmember Black moved to approve the insurance bid from; second by Councilmember Rowley; vote unanimous.

CONSIDER A BUDGET REVISION FOR THE LEISURE SERVICES YOUTH SCHOLARSHIP PROGRAM – DAN RODGERSON: Councilmember Cozzens moved to approve the revision for the youth scholarship program; second by Councilmember Black; vote unanimous.

APPROVE AN ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCE : Paul – this is the proposal you heard last week to deal with dogs eating chickens to take them out of dangerous animal. If you get cited for aggressive dog, there will still be fines and restitution. We are getting rid of 6 sided cage, muzzle and signage.

Councilmember Rowley moved to approve the ordinance amending the animal control ordinance; second by Councilmember Cozzens; roll call vote as follows:

Ron Adams	-	AYE
John Black	-	AYE
Paul Cozzens	-	AYE
Don Marchant	-	AYE
Fred Rowley	-	AYE

APPROVE AN ORDINANCE AMENDING THE CITY'S OUTDOOR TIME OF DAY IRRIGATION RESTRICTIONS – PAUL BITTMENN: Paul – the proposal would be no outdoor irrigation watering on culinary system from 8AM – 6PM. It would start April 1st and end October 31st. The penalty would change to 1st is a notice; 2nd shut water off with a \$25 reconnection fee; 3rd violation shut off, reconnection fee at an additional \$100 penalty. Black – is there a way to lock people out if you turn the water off? Robbie – we pull the meter if they turn the water back on themselves. Paul – the Water Ordinance prohibits tampering with the meter and it is a criminal charge. Rowley – I am watering my lawn at noon in July, I get a tag and my kid takes the tag and I don't see it. My water is shut off, I come home at 5PM on Friday and I have no water, am I out of luck until Monday? Can I pay an extra \$20 to get the water back on Saturday? No. Rob – this is set up like a non-payment on a water bill, it is the same. Adams – you notice in the middle of the week for that. Rowley – it is stern, but I don't see any alternatives. Black – I like the why, and Robbie only has during the day to refill the tanks. If we use more during the day than Rob can fill the tanks then we are in trouble. Rowley – can we do additional radio spots or something to spread the word, pass it to church congregations and larger employers? Mayor – I will do a section in the newsletter, on our website and social media. I will work with Robbie to do a write up. Rob – I talked with Kristen and she will put it on the water bills. Paul – the effective date is immediately upon publication, State law requires it be published before it becomes effective. If you want to set a different effective date we can do that. Cozzens – the water is a serious business, Las Vegas is desperately drilling a lower hole in Lake Meade. Rowley – maybe we should have it become effective May 15th?

Tanner Crane – what about the kids playing in the sprinklers, would that affect us? When do you play in the sprinklers? Tanner - after school, in the summer in the morning. Paul read the ordinance. Rowley – we are going to have to change what we do because we didn't get any snow. If you can wait until after 6PM and there is always the Aquatic Center.

Why are the schools exempt from daytime watering? That concerns a lot of people. I come from Idaho and we have certain days and times of days you can water. Rowley – there are reasons, but the shelter makes them more careless. The water they are using is coming from the lake, not culinary water. Black – only secondary water users can do that. Rowley – they are still lax on doing that.

Marilyn Kidwell – there are time we have to work on our system? Rowley – maintenance is allowed along as someone is there. I am hoping we will use discretion. Traci Sullivan – if you rent a home in Cedar you don't pay the water and you don't get the information, but they are responsible to take care of the yard. Mayor – we will try to use the website, Facebook, word of mouth. Cozzens – as a landlord I should make sure it is right.

Councilmember Rowley moved to approve the ordinance amending the outdoor time of day irrigation restrictions and the effective date become May 15th, but have a verbal warning until that day; second by Councilmember Cozzens; roll call vote as follows:

Ron Adams	-	AYE
John Black	-	AYE
Paul Cozzens	-	AYE
Don Marchant	-	AYE
Fred Rowley	-	AYE

APPROVE THE PURCHASE OF APPROXIMATELY 13,000 SQUARE FEET OF ASPHALT FOR THE AQUATIC CENTER/FIELD AT THE HILLS PARKING LOT – DAN RODGERSON:

Cozzens – was that not able to be approved by Staff because it was under a certain dollar amount. Dan – we are moving it from one project to another, it is a transfer from one project to another.

Councilmember Rowley moved to ratify the approval of 13,000 square feet of asphalt for the Aquatic Center; second by Councilmember Black; vote unanimous.

ADJOURN: Councilmember Rowley moved to adjourn at 6:50 p.m.; second by Councilmember Marchant; vote unanimous.


Renon Savage, CMC
City Recorder